

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-26281 of 2016

Date of decision : 28.09.2016

Ram Karan

... Petitioner

versus

State of Haryana

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.S. Sahu, Advocate
for the petitioner

Ms. Dimple Jain, AAG Haryana

Mr. Lajpat Sharma, Advocate
for the complainant

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking regular bail in FIR No. 676 dated 02.11.2015 registered at Police Station Samalkha, Panipat, District Panipat under Sections 120-B, 506 IPC, Sections 4 and 18 of POCSO Act and Section 67-B of I.T. Act (Section 376(2) IPC, Section 6 of POCSO Act and Section 67-B of I.T. Act added later on).

Learned counsel for the petitioner contends that no witness till today has been examined and the petitioner is in custody since 03.11.2015 and he had challenged the charge in which the stay has been granted. The counsel refers to Annexure P-2 and asserts that statement under Section 164 Cr.P.C. was recorded and allegations were only of attempt of rape. The counsel further asserts that the girl had refused her medical. It was urged that proceedings have been stayed and the trial would take time and the bail may be allowed.

Learned counsel for the complainant and the State have opposed the application and it has been urged that supplementary statement was given by the girl and medical was also conducted and the petitioner did not reveal these facts in the revision filed by him.

The petitioner had earlier filed a petition seeking bail which was withdrawn on 10.02.2016 as State counsel had submitted that not a single witness had been examined. After two months another petition bearing Crl. Misc. No. M-11171 of 2016 was filed which was withdrawn again. The Court found that there was no change in circumstances and not even a single witness had not been examined. Same is the position even today. The order passed in Criminal Revision

No. 1134 of 2016 (Annexure P-6) reads as under:-

“Learned counsel for the petitioner submits that as per complaint, there was no allegation of commission of rape. Even challan was not presented against the petitioner under Section 376(2) IPC and no material was collected by the investigating agency. There was no evidence to connect the petitioner with the offence and even no prima facie case was made out to frame charge against the petitioner under Section 376(2) IPC. Learned counsel also submits that the victim even refused for medical examination, still the charge has been framed under Section 376(2) IPC.

Notice of motion for 27.05.2016.

However, the trial Court is directed to adjourn the case beyond the date fixed before this Court.”

The above order was passed on 21.03.2016. The charge had been framed before that. The prosecutrix had made a supplementary statement and her medical was also got done. The copy of the challan had been handed over to the accused but these facts were not disclosed before the Court before whom the Criminal Revision came up and on the assertions made before that Court the proceedings before the trial Court have virtually come to a stand still because of wrong representation made there.

The counsel now seeks bail for the petitioner since the trial is at a stand still. The stay was obtained by concealing the facts. The statement of the witnesses in the Court would be important.

No case for bail is made out.

The petition is dismissed.

September 28, 2016

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(ANITA CHAUDHARY)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No